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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,526	07/10/2003	Gerd Breiter	DE920020011US1	1217
7590 03/12/2007 Leslie J. Payne, IBM Corporation, Dept. 917 3605 Highway 52 North Rochester, MN 55901-7829			EXAMINER HUSSAIN, TAUQIR	
			ART UNIT 2152	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/616,526

Applicant(s)

BREITER ET AL.

Examiner

Tauqir Hussain

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/10/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. Claims 1-15 are pending in this application.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1,3-15, are rejected under 35 U.S.C. 102(e) as being anticipated by Kenner et al. (Patent Number: 6,112,239), hereinafter, "Kenner".

3. As to claim 1, a method for enhancing streaming operation in a distributed communication system providing communication links between a plurality of stream servers, a client machine requesting a particular media file, and a stream server selection unit (Fig.1, Element-32, server selection unit and Col.5, lines 13-18), comprising the steps of:

retrieving a list of stream servers (Col.5, lines 46-47, where various sites are interpret as stream servers),

evaluating the list of stream servers Col.5, lines 42-43),

selecting one of the stream servers on the list (Col.5, lines 61-63), and

initiating streaming from the selected stream server (Col.5, lines 37-40, where having the file delivered to the user's terminal after site selection and evaluation streaming must had initialized).

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4. As to claim 11, A method for enhancing streaming operation in a distributed communication system providing communication links between a plurality of stream servers, a client machine requesting a particular media file, and a stream server selection unit (Fig.1, Element-32, server selection unit and Col.5, lines 13-18), comprising the steps of:

detecting the data transfer rate between the client machine and the distributed communication system (Col.10, lines 63-65),

intercepting a request for streaming a media file(Col.6, lines 31-36),

modifying the streaming request by appending preference information for streaming of the requested media file (Col.6, lines 37-40), and

sending the modified streaming request to the stream server selection unit (Fig.1, Element-32, Col.6, lines 34-36, where inherently selection and data request is handled by MSP, which can be interpret as selection unit).

5. As to claim 3, Kenner discloses, evaluating the list of stream servers further includes the step of retrieving and considering the stream server's capabilities (Col.11, lines 12-16).

6. As to claim 4, Kenner discloses, further includes the step of retrieving and considering the player availability (Col.6, lines 13-15, where outage metric can be interpret as if resources are available to execute the file, which can be a software or media player).

7. As to claim 5, Kenner discloses, further includes the step of retrieving and considering preferences from the client (Col.6, lines 25-27).
8. As to claim 6, Kenner discloses, further includes the step of retrieving and considering the client connectivity (Col.10, lines 1-4).
9. As to claim 8, Kenner discloses, determining whether or not the stream server can handle streaming of the requested media file (Col.5, lines 52-56, where different tests are performed to evaluate if users request can be processed).
10. As to claim 7, Kenner discloses, further includes the step of weighting one or more considered parameters (Col.9, lines 32-33).
11. As to claim 9, Kenner discloses, further comprising the step of determining whether or not the format of the media file has changed (Col.14, lines 46-48).
12. As to claim 10, Kenner discloses, determining whether or not the quality of the media file is to high for the connection from the selected stream server to the client machine (Col.10, lines 60-62).
13. As to claim 12, Kenner discloses, further comprising the initial step of detecting the capabilities of the client machine (Col.9, lines 58-63).

14. As to claim 13, Kenner discloses, further comprising the step of retrieving preferences predetermined by a user of the client machine (Col.6, lines 37-40).

15. As to claim 14, Kenner discloses, a device for enhancing streaming operation in a distributed communication system providing communication links between a plurality of stream servers, a client machine requesting a particular media file, and a stream server selection unit, the device being configured to perform a method according to claim 1 (Fig.1, Col.8, lines 13-19).

16. As to claim 15, Kenner discloses, a computer program product stored on a computer usable medium, comprising computer readable program means for causing a computer to perform a method according to claim 1 (Col.22, lines 8-17).

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 2, is rejected under 35 U.S.C 103(a) as being unpatentable over Kenner in view of Lewis (Pub. No.: US 2002/0159464 A1), hereinafter, "Lewis".

19. As to claim 2, Kenner discloses the invention substantially as the parent claim 1. However, Kenner is silent on using UDDI service for retrieving the stream server list. Lewis discloses, using the UDDI services in B2B specification ([0059, lines 1-4]).

Therefore it would have been obvious to modify the teachings of Kenner with the teachings of Lewis in order to develop a new method and system for providing a parallel media gateway that offers an event driven, message oriented video stream broadcasting scheme with parallel telephony exchange of digital audio streams with self provisioning content.

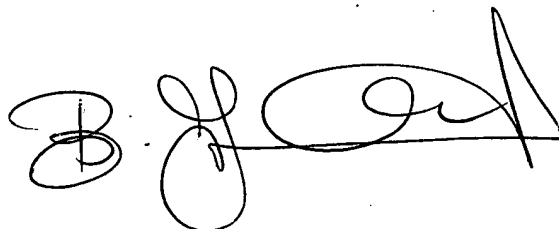
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tauqir Hussain whose telephone number is 571-272-1247. The examiner can normally be reached on 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571 272 3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TH

A handwritten signature in black ink, consisting of stylized, cursive letters that appear to read 'B. Jaroenchonwanit'.

**BUNJOB JAROENCHONWANIT**  
**SUPERVISORY PATENT EXAMINER**